

1 LESLEY B. MILLER  
Nevada Bar No. 7987  
2 KAEMPFER CROWELL  
1980 Festival Plaza Drive, Suite 650  
3 Las Vegas, Nevada 89135  
4 Telephone: (702) 792-7000  
Fax: (702) 796-7181  
5 [lmiller@kcnvlaw.com](mailto:lmiller@kcnvlaw.com)  
Attorney for Defendants  
6 Paula Pritchard, Kathleen Robbins, Ian Murray,  
7 Judy Murray, Sandy Chambers, and Kerry Dean

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 ENRIQUE MARTINEZ, *et al.*,

11 Plaintiffs,

12 vs.

13 MXI CORP., *et al.*,

14 Defendants.

Case No.: 3:15-cv-00243-MMD-VPC

**PRITCHARD DEFENDANTS AND  
PLAINTIFFS'  
STIPULATION AND ORDER  
REGARDING NON-WAIVER OF  
PRIVILEGES**

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17 COME NOW Defendants PAULA PRITCHARD, KATHLEEN ROBBINS, IAN  
18 MURRAY, JUDY MURRAY, SANDY CHAMBERS and KERRY DEAN (collectively the  
19 "Pritchard Defendants"), by and through their counsel, Kaempfer Crowell, and with Plaintiffs  
20 ENRIQUE MARTINEZ, MICHELLE MARTINEZ, SUNSHINE MARTINEZ-VALDEZ,  
21 BECKIE LOBB and PAULA WILSON hereby stipulate to the following.  
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23 **Stipulation and Order Regarding Non-Waiver of Privileges**

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25 WHEREAS, on August 4, 2016, the Court ruled that the Pritchard Defendants were to  
26 provide access to their personal email accounts in granting Plaintiffs' Motion to Compel.

27 As a result of that ruling, the undersigned counsel engaged in discussions to use an  
28 independent third party vendor to collect and safeguard the Pritchard Defendants emails pending an

1 agreement by the undersigned counsel as to the protocol for protecting privileged information.

2 Counsel have mutually agreed to utilize the services of David Field, ACE | Forensic  
3 Discovery Technician, XACT DATA DISCOVERY, 733 Marquette Ave South, Suite 125,  
4 Minneapolis, Minnesota 55402 ("Third Party Vendor").

5 It was agreed upon by counsel that use of a Third Party Vendor in e-discovery was the most  
6 efficient means to comply with the court's ruling and became necessary to ensure the subject files  
7 remain intact. However, counsel hereby agree that the use of the Third Party Vendor in no way  
8 constitutes a waiver of the attorney-client privilege that may apply to the content uncovered.

9 Counsel also agreed to negotiate a stipulated protocol to govern the production of the  
10 Pritchard Defendants' emails to protect for privilege before any emails or documents are produced  
11 to Plaintiffs. If the parties cannot agree, the court will be enlisted to provide guidance.

12 As such, the Third Party Vendor has agreed to hold, safeguard, and preserve the  
13 information collected unless and until counsel enter into an agreement regarding the protocol for  
14 production or the Court issues an order addressing the same.

15 Counsel hereby agree that there shall be no waiver of the attorney client privilege and work  
16 product privilege, along with any other applicable privileges, by disclosure by the Pritchard  
17 Defendants of their personal email accounts and corresponding information contained therein to the  
18 Third Party Vendor.

19 The parties agree that, pursuant to Fed. R. Evid. 502, the disclosure during discovery of  
20 any communication or information that is protected by privilege, including but not limited to those  
21 defined by Fed. R. Evid. 502, or work-product protection, shall not waive the privilege or  
22 protection in the above-captioned case, or any other federal or state proceeding, for either the  
23 document or the subject matter of the document.

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1 All email account disclosures made to the Third Party Vendor are to be regarded as  
2 necessary to comply with the Court's August 4, 2016 ruling and their disclosure to the Third Party  
3 Vendor shall be regarded as confidential and privileged and the producing party is hereby deemed  
4 to have taken "reasonable steps to prevent disclosure," regardless of any argument or  
5 circumstances suggesting otherwise. Pursuant to FRE 502(d), "A federal court may order that the  
6 privilege or protection is not waived by disclosure connected with the litigation pending before the  
7 court — in which event the disclosure is also not a waiver in any other federal or state  
8 proceeding."

10 Whereas, the parties have contemplated the foregoing, stipulated, and hereby request the  
11 entry of an order providing, that all privileges and work product protection shall not be waived  
12 under the certain circumstances, as specified herein.

13 **IT IS SO STIPULATED by the undersigned.**

15 DATED this 8th day of August, 2016.

DATED this 8th day of August, 2016.

16 KAEMPFER CROWELL

DICKINSON WRIGHT, PLLC

17 By: /s/ Lesley B. Miller

By: /s/ R. Adam Swick

18 Lesley B. Miller, Esq. (NV Bar No. 7987)  
19 1980 Festival Plaza Drive, Suite 650  
20 Las Vegas, Nevada 89135  
21 Tel.: (702) 792-7000  
22 Fax: (702) 796-7181  
23 E-mail: lmiller@kcnvlaw.com  
24 *Attorneys for Defendants Paula Pritchard,*  
25 *Kathleen Robbins, Ian Murray, Judy*  
26 *Murray, Sandy Chambers, and Kerry*  
27 *Dean*

John P. Desmond (NV Bar No. 5618)  
Justin J. Bustos (NV Bar No. 10320)  
100 West Liberty St., Suite 940  
Reno, NV 89501  
Tel.: (775) 343-7500  
Fax: (775) 786-0131  
E-mail: JDesmond@dickinson-wright.com

R. Adam Swick (admitted pro hac vice)  
REID COLLINS & TSAI LLP  
1301 S. Capital of Texas Hwy.  
Suite C300  
Austin, TX 78746  
Tel.: (512) 647-6100  
Fax: (512) 647-6129  
E-mail: aswick@rctlegal.com  
*Attorneys for Plaintiffs Enrique*  
*Martinez, Michelle Martinez,*  
*Sunshine Martinez, Beckie Lobb*  
*and Paula Wilson*

25 **IT IS SO ORDERED**

26   
27 U.S. MAGISTRATE JUDGE

28 DATED: August 10, 2016

1 **ORDER GRANTING STIPULATION.**

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4 **UNITED STATES MAGISTRATE JUDGE**  
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**Michelle Diegel**

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**From:** Adam Swick <aswick@rctlegal.com>  
**Sent:** Monday, August 8, 2016 3:32 PM  
**To:** Lesley Miller  
**Cc:** Michelle Diegel; Karen Shuman; Ben King; Beret Flom  
**Subject:** RE: Stipulation and Order Regarding NonWaiver (Final for Signatures) (002).DOCX

You have my permission to sign for me and file.

Sent from my T-Mobile 4G LTE Device

----- Original message -----

**From:** Lesley Miller <LMiller@kcnvlaw.com>  
**Date:** 8/8/2016 4:38 PM (GMT-06:00)  
**To:** Adam Swick <aswick@rctlegal.com>  
**Cc:** Michelle Diegel <MDiegel@kcnvlaw.com>, Karen Shuman <KShuman@kcnvlaw.com>, Ben King <bking@rctlegal.com>, Beret Flom <bflom@rctlegal.com>  
**Subject:** RE: Stipulation and Order Regarding NonWaiver (Final for Signatures) (002).DOCX

Adam,

With your permission, I will file this. It contains those additions/revisions.

Lesley

KAEMPFER

CROWELL

Lesley B. Miller

Kaempfer Crowell

1980 Festival Plaza Drive, Suite 650  
Las Vegas, NV 89135-2958  
Tel: (702) 792-7000  
Fax: (702) 796-7181  
Email: [lmiller@kcnvlaw.com](mailto:lmiller@kcnvlaw.com)

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